

## 21 C.J.S. Courts § 33

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### Courts

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### II. Jurisdiction of Courts

#### C. Jurisdiction of Subject Matter or Cause of Action

##### 2. Amount in Controversy Within Subject Matter Jurisdiction

###### b. Determination of Amount in Controversy Within Subject Matter Jurisdiction

§ 33. Exemplary or special damages included as amount in controversy for subject matter jurisdiction

[Topic Summary](#) | [References](#) | [Correlation Table](#)

#### West's Key Number Digest

West's Key Number Digest, [Courts](#)  121(9), 169(6)

**In determining the amount in controversy for jurisdictional purposes, exemplary or punitive damages should be included when they are claimed in a tort action but not when claimed in a contract action.**

Ordinarily, special<sup>1</sup> or exemplary damages permitted by governing law may be included in determining whether a jurisdictional amount-in-controversy requirement has been met.<sup>2</sup> When exemplary or punitive damages are claimed in an action of tort, the damages should be included in determining the jurisdictional amount,<sup>3</sup> provided the damages are properly pleaded<sup>4</sup> and permitted by state law,<sup>5</sup> and unless the facts pleaded are on their face insufficient to sustain a good faith claim for punitive damages.<sup>6</sup>

Double or treble damages or other statutory allowances of extra damages, according to some authorities, should be excluded in computing the jurisdictional amount as indicated by the real amount in controversy.<sup>7</sup>

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## Footnotes

1 La.—[Russell v. Shelter Mut. Ins. Co.](#), 38 So. 3d 561 (La. Ct. App. 3d Cir. 2010), writ denied, [45 So. 3d 1075](#) (La. 2010).

2 R.I.—[Zarrella v. Minnesota Mut. Life Ins. Co.](#), 824 A.2d 1249 (R.I. 2003).

Wash.—[Liera v. Senatore](#), 75 Wash. App. 97, 877 P.2d 700 (Div. 1 1994).

3 N.J.—[Wisser v. Kaufman Carpet Co., Inc.](#), 188 N.J. Super. 574, 458 A.2d 119 (App. Div. 1983).

4 Tex.—[Acreman v. Sharp](#), 282 S.W.3d 251 (Tex. App. Beaumont 2009).

5 R.I.—[Carvalho v. Coletta](#), 457 A.2d 614 (R.I. 1983).

6 Tex.—[Acreman v. Sharp](#), 282 S.W.3d 251 (Tex. App. Beaumont 2009).

### Good faith required

R.I.—[Zarrella v. Minnesota Mut. Life Ins. Co.](#), 824 A.2d 1249 (R.I. 2003).

7 Ohio—[Rusov v. Ansley](#), 2007-Ohio-7022, 2007 WL 4554189 (Ohio Ct. App. 9th Dist. Summit County 2007) (statutory treble damages).

Tex.—[Sears, Roebuck & Co. v. Big Bend Motor Inn, Inc.](#), 818 S.W.2d 542 (Tex. App. Fort Worth 1991), writ denied, (Feb. 12, 1992).